

OPEN MEETING AGENDA ITEM



March 2, 2023

Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007

RE: Community Solar Policy Statement, Docket No. E-00000A-22-0103, Exceptions to Staff's Proposed Order filed February 24, 2023

Chairman and Commissioners,

The signatories to this letter — a coalition of solar and storage industry partners, including developers, subscriber acquisition and management firms, and nonprofit advocacy groups — have been participating in the Commission's effort to develop a community solar program since May 2022, nearly a year ago. Our coalition has worked together, and in consultation with other stakeholders, to submit numerous filings that detail national best practices for community solar programs and recommendations for tailoring a community solar program to Arizona. To inform development of an Arizona-specific program, we have also provided a study from Brattle Group regarding the value of distributed community solar projects in APS' service territory and a study completed by ASU that highlights the quantitative economic benefits of a community solar

program in Arizona. We are supportive of the Commission's effort to make community solar available to Arizonans and appreciate the opportunity to provide information and recommendations to support this goal.

The policy statement and proposed order filed by Commission Staff on February 24, 2023 is misaligned with the common understanding and implementation of community solar across the country. Staff's memorandum and proposed order fails to address or incorporate any of the feedback and recommendations provided by our coalition throughout the seven month working group process or in our stakeholder comments filed January 27, 2023. Staff's memorandum includes many shortcomings and, if implemented, would not result in a community solar program, would not spur development of any community solar projects in the state, and would not expand the benefits of solar to families and businesses that currently cannot access rooftop solar.

The Commission should reject the Staff proposal. We recommend the Commission either adopt our attached amendment or direct that the five issues of location, structure, LMI carve out, use of an all-source RFP, and must-take requirements be resolved via an evidentiary hearing. If the will of the Commission is to do neither, we ask that you vote no on the Staff's Recommended Opinion and Order.

For reference, a list of our previous filings can be found below:

- Response¹ to July 7 Staff Memorandum and July 20, 2022 letter filed by RUCO;
- Draft Program Proposal;²
- The Brattle Group study³ on the value of DG resources in APS territory;
- Response⁴ to Commissioner Marquez Peterson's August 23, 2022 Letter;
- Bill Credit Rate Proposal;⁵
- Response⁶ to APS Program Proposal;
- Economic Impact Study conducted by Arizona State University;⁷

¹ Response to Staff Memorandum, filed in Docket No. E-00000A-22-0103 on July 29, 2022. See: <https://docket.images.azcc.gov/E000020412.pdf?i=1673898931456>.

² Draft Program Proposal, filed in Docket No. E-00000A-22-0103 on August 26, 2022. See: <https://docket.images.azcc.gov/E000020811.pdf?i=1673359840801>.

³ Study of Community Solar Value Stack in Arizona, conducted by The Brattle Group, filed in Docket No. E-00000A-22-0103 on August 26, 2022. See: <https://docket.images.azcc.gov/E000020793.pdf?i=1674487120887>.

⁴ Response to Chairwoman Marquez Peterson's Letter, filed in Docket No. E-00000A-22-0103 on September 9, 2022. See: <https://docket.images.azcc.gov/E000021024.pdf?i=1674487120887>.

⁵ Resource Comparison Proxy for Community Solar, filed in Docket No. E-00000A-22-0103 on September 9, 2022. See: <https://docket.images.azcc.gov/E000021023.pdf?i=1674487120887>.

⁶ Response to APS Program Proposal, filed in Docket No. E-00000A-22-0103 on October 7, 2022. See: <https://docket.images.azcc.gov/E000021583.pdf?i=1673359840801>.

⁷ The Potential Economic and Fiscal Impacts of Community Solar in Arizona, filed in Docket No. E-00000A-22-0103 on November 2, 2022. See: <https://docket.images.azcc.gov/E000022238.pdf?i=1674487120887>.

- Exceptions and Proposed Amendment⁸ to Staff's Recommended Opinion and Order; and
- Response to Staff's request for comment on the forthcoming policy statement filed on January 27, 2023.⁹

Decision 78784¹⁰ directed Utilities Division Staff to work with stakeholders to provide a recommendation to the Commission regarding five elements of community solar program design: "(1) Location of the community solar program; (2) Structure of the program; (3) The percentage of carve out for low to moderate income customers; (4) Whether the program should be included in an all-source Request for Proposal; (5) Must take provision."¹¹

Despite clear Commission direction, Staff's memorandum and proposed order does not address or incorporate feedback filed by stakeholders. Additionally, Staff's memorandum and proposed order includes several provisions that stakeholders have repeatedly demonstrated are not characteristic of other community solar programs and would not lead to a successful or robust program in Arizona. It also includes, without explanation, recommendations that were not discussed or recommended during the duration of the working group process. As a result, Staff's order leaves the Commission without workable guidance on how to proceed with a meaningful program that benefits Arizona communities.

(1) Structure of the Program

Staff recommends that participation in a community solar program be optional for regulated electric utility companies. This is not a recommendation that was raised or discussed during the course of the working group process. This recommendation deviates from all traditional, third-party, community solar programs across the country, and will not result in a successful program in Arizona.

Decision 78784 tasks the Commission with "adopting a statewide policy" for community solar.¹² Per the language within the Decision itself, a statewide community solar program should apply to all Commission-regulated investor-owned utilities (IOUs) in the state: Arizona Public Service (APS), Tucson Electric Power (TEP), and UNS Electric (UNS). An opt-in program for regulated utilities would result in inconsistent access to community solar across the state, depending on a customer's utility service territory. Furthermore, the state's investor-owned utilities have already

⁸ The Solar Coalition's Amendment and Proposed Exceptions to Staff's Memorandum and Proposed Order, filed in Docket No. E-00000A-22-0103 on November 4, 2022. See:

<https://docket.images.azcc.gov/E000022223.pdf?i=1674662938969>.

⁹ Response to Staff Request for Comment on the Community Solar Policy Statement, filed in Docket No. E-00000A-22-0103 on January 27, 2023. See: <https://docket.images.azcc.gov/E000023855.pdf?i=1677286561482>.

¹⁰ Decision 78784 filed in Docket No. E-00000A-22-0103 on November 21, 2022. See <https://docket.images.azcc.gov/0000208038.pdf?i=1673898931456>.

¹¹ Decision 78784 at pg. 11.

¹² Decision 78784 at pg. 11.

announced their opposition to such a program, no matter how much their customers may want or benefit from it. We recognize that circumstances may differ for cooperative utilities and recommend that they should be permitted to opt-in to the program.

Additionally, Staff recommends that the bill credit for energy exported from community solar programs not exceed avoided cost. The bill credit rate was specifically identified in Decision No. 78784 as an item to be addressed in the evidentiary hearing,¹³ not the policy statement. It is premature to determine the bill credit rate at this time, and in isolation from other important program details which have not yet been determined. Regardless, the proposed bill credit would be by far the lowest in the country and would not result in the development of any community solar projects.

Finally, Staff recommends that “[a] participating regulated electric utility company may offer community solar itself or via partnership with a third party.” It is unclear whether Staff is recommending that the regulated electric utility will use a third-party to administer the program or whether this statement is related to community solar project ownership. Community solar projects should be owned by competitive third-party entities in order to benefit Arizona customers through the use of private capital to develop projects.

There are several important components that define the “structure” of a community solar program and are not addressed in Staff’s memorandum and proposed order, including transaction and crediting structure, program size, permitted resources, procurement structure, project maturity requirements, ownership, bill credit term, guaranteed savings, eligible subscribers, the treatment of unsubscribed energy, and all elements of consumer protection other than how the program interfaces with the utility disconnect moratorium. These components were discussed at length in our last filing on January 27, 2023.¹⁴

(2) Location of the Community Solar Program

Staff recommends that “[c]ommunity solar energy should be generated within a participating regulated electric utility company’s service territory.”¹⁵ We agree, and further recommended that individual community solar projects be connected to that utility’s distribution system.

(3) Percentage Carve-Out for Low-Income Customers

The joint signatories have previously recommended a low- and moderate-income (LMI) carve out of 20%, based on the models we have seen created in other markets. However, we can support an

¹³ Decision 78784 at pg. 11, Line 23.

¹⁴ Response to Staff Request for Comment on the Community Solar Policy Statement, filed in Docket No. E-00000A-22-0103 on January 27, 2023. See: <https://docket.images.azcc.gov/E000023855.pdf?i=1677286561482>.

¹⁵ Staff Memorandum and Proposed Order, filed in Docket No. E-00000A-22-0103 on February 24, 2023, Attachment A.

LMI carve-out of thirty (30) percent, as recommended by Wildfire. This aligns with neighboring states, such as New Mexico, which have recently opened third-party community solar programs.

Staff recommends that the remaining project capacity not reserved for low- and moderate-income customers be “limited to non-profit (including faith-based organizations), schools, municipalities, extra small commercial, and small commercial customer classes.” This definition excludes residential customers. Decision No. 78583 clearly states that participating customers should include residential *and* low-income customers.¹⁶ A recommendation that non-LMI residential customers be excluded from the program was never raised during the course of the working group process. Even residential customers who are not low-income cannot access rooftop solar if they are renters, live in a condo, or face other technical barriers to installing solar. A statewide community solar program should include all residential customers.

(4) Whether the Program Should be part of an RFP

Staff recommends use of a request for proposal (RFP) model for a community solar program in Arizona, without providing any details about how such a process could work. As discussed in our prior filings, states that use an RFP process for selecting community solar projects do so in order to select projects based on the benefits they deliver to participants and communities, not cost alone. Community solar programs need not rely on a price-based RFP procurement format to control project and/or program costs because project compensation is wholly determined by the value of Commission-approved bill credits paid to subscribers.

(5) Must-take provision

Staff states that a “must take requirement is not appropriate for Arizona’s community solar and storage program,” implying that utilities should be able to curtail community solar projects for any reason. Consistent with the precedent set in programs around the country, the signatories recommend against routine curtailment of power produced by community solar projects. There should be, of course, permissible instances during which the utility can curtail community solar production for emergency safety or reliability purposes.

Like rooftop solar, community solar project subscribers derive value from their subscription in the form of bill credits only when power is produced and exported to the grid. Decision No. 78583 states, “Direct bill offsets may be considered for subscribers to produce savings in a structure substantially similar to that offered to rooftop solar customers.”¹⁷ If a utility curtails community solar projects on a routine basis, it would unreasonably deny bill credits and savings to subscribers who sign up for the program and substantially differ from the structure through which rooftop solar customers experience savings.¹⁸ Additionally, without predictable certainty regarding if and when

¹⁶ Decision No. 78583 filed in Docket No. E-01345A-21-0240 on May 27, 2022 at Page 11. See <https://docket.images.azcc.gov/0000206888.pdf?i=1677813967352>.

¹⁷ Decision No. 78583, May 27, 2022, Page 11.

¹⁸ Response to APS Proposal, Item 7.

projects will be producing energy, it will be impossible to secure financing to develop and build community solar facilities. The signatories are not aware of any community solar program anywhere else in the country that currently allows for routine curtailment by the utility.

Utilities have stated that curtailment of community solar projects is necessary because negatively priced power is available, at times, on the market. In such instances, it is economic for utilities to curtail the highest-cost marginal resource in exchange for cheaper or negatively priced power on the market. Customers benefit when utilities curtail resources with high fuel costs or significant pollution impacts in exchange for cleaner, more affordable resources like solar. IOUs in Arizona do not curtail rooftop solar production, and yet they are able to appropriately manage the totality of resources on their system in order to provide cost-effective and reliable power to customers. We have recommended that a community solar program include a specific annual capacity allotment, and that utilities account for community solar project capacity in their long-term resource planning processes. This will make it easy for utilities to predict the amount of community solar resources that will be available to them and plan their operations and future resource procurement accordingly.

We have attached a proposed amendment below as Attachment A.

Respectfully,

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Attachment A: Exceptions and Proposed Amendment to Staff's Recommended Policy Statement

SOLAR COALITION PROPOSED AMENDMENT NO. 1

TIME/DATE PREPARED: February 24, 2023

COMPANY: _____

AGENDA ITEM NO.:

DOCKET NO.: E-00000A-22-0103

OPEN MEETING DATE: March 7, 2023

Purpose: To establish a competitive community solar program in Arizona with its numerous economic benefits and the opportunity to save ratepayers money on their electric bills.

DELETE Attachment A

INSERT new Attachment A, as follows:

ATTACHMENT A

**ARIZONA CORPORATION COMMISSION POLICY STATEMENT REGARDING
STATEWIDE COMMUNITY SOLAR AND STORAGE**

This document reflects the Arizona Corporation Commission's ("Commission") policy for a Statewide Community Solar and Storage program for regulated entities in the State of Arizona.

- I. Structure of Community Solar in Arizona
 - A. Participation in a Statewide Community Solar and Storage Program is applicable to investor owned, regulated electric utility companies.
 - B. Participation in a Statewide Community Solar and Storage Program is optional for cooperative electric utility companies that want to participate.
 - C. A participating regulated electric utility company may hire a third party to administer the program.
 - D. Community solar projects may be owned by competitive third-party entities.

- E. A participating regulated electric utility company should place emphasis on consumer education and disclosures.
 - F. A participating regulated electric utility company should place emphasis on ratepayer protection from cross-subsidization.
 - G. A participating regulated electric utility company should ensure program availability to low and moderate income ("LMI") and other identified customer classes.
 - H. The Commission will maintain oversight of the program.
- II. Location of Community Solar in Arizona
 - A. Community solar energy should be generated within a participating regulated electric utility company's service territory and connected to the distribution system.
- III. Percentage of Carve out for LMI Ratepayers
 - A. The percentage of LMI customers should be thirty percent of the total megawatts ("MWs") approved for a community solar and storage project. The remaining capacity should be limited to residential, non-profit (including faith-based organizations), schools, municipalities, extra small commercial, and small commercial customer classes.
- IV. Request For Proposal
 - A. A request for proposal model for community solar and storage projects in Arizona is not appropriate.
- V. Must Take
 - A. Like for rooftop solar, a must take requirement is appropriate for Arizona's community solar and storage program.

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under section 41-1033, Arizona Revised Statutes, for a review of the statement.

****Make all conforming changes**

THIS AMENDMENT:

_____ Passed _____ Passed as amended by _____

_____ Failed _____ Not Offered _____ Withdrawn